IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1409 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SPECIAL LAQ OFFICER & 1 - Appellants
Versus
PATEL RAJENDRAKUMAR SHANKARDAS - Respondent

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Appearance :
MR RC KODEKAR, ASSTT.OVERNMENT PLEADER for Appellants.
None for Respondent.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 24/04/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

By means of filing the instant appeal under Section 54 of the Land Acquisition Act, 1894, read with Section 96 of the Code of Civil Procedure, 1908, the appellants have challenged the legality of the common judgment and award dated November 27, 2001, rendered by the learned 4th Joint Civil Judge (S.D.), Mahesana, in Land Acquisition Reference Nos. 353 of 2001 to 363 of 2001, by which the Reference Court has awarded additional compensation to the claimant/s at the rate of Rs.26/- per sq.mt. over and above the compensation awarded by Special Land Acquisition Officer at the rate of Rs. 4.50 Ps. Per sq.mt.

2. The Special Land Acquisition Officer, Narmada Yojana, Unit No.3, Ahmedabad, proposed to the State Government to acquire land situated at village Adundra, Taluka : Kadi for the public purpose of Narmada Yojana. On scrutiny of the said proposal, the Government was satisfied that the lands situated at village Adundra were likely to be needed for the public purpose of Narmada Yojana. Therefore, notification under Section 4 of the Land Acquisition

Act, 1894 [“the Act” for short] was issued, which was published in Government Gazette on May 18, 1992. The owners, whose lands were proposed to be acquired, were served with notices under Section 4 of the Act. They filed their objections against the proposed acquisition. After considering their objections, the Land Acquisition Officer forwarded his report to the State Government as contemplated by Section 5A(2) of the Act. On consideration of the said report, the State Government was satisfied that the lands situated at village Adundra were needed for public purpose of Narmada Yojana. Therefore, notification under Section 6 of the Act was issued, which was published in Government Gazette on August 4, 1992. The interested persons were thereafter served with notices under Section 9 of the Act. In response to the said notices, the claimant/s appeared before the Special Land Acquisition Officer and claimed compensation at the rate of Rs. 50/- per Sq.Mt. However, having regard to the evidence adduced before him, the Special Land Acquisition Officer awarded compensation at the rate of Rs. 4.50 Ps. Per Sq.Mt.

The claimants were of the opinion that the offer of compensation made by the Special Land Acquisition Officer was inadequate. Therefore, they submitted applications in writing requiring the Special Land Acquisition Officer to refer the matters to the Court for the purpose of determination of compensation. Accordingly, references were made to District Court, Mehsana, which were numbered as Land Acquisition Reference Nos.353 of 2001 to 363 of 2001. On behalf of the claimants, Mr.Jagjivandas Shivdas Patel was examined at Exh.14, who produced documents in support of the claim of the claimants that the claimants were entitled to enhanced compensation. On behalf of the Special Land Acquisition Officer, copies of Index of registered sale-deeds of the lands situated at village Adundra were produced. On appreciation of evidence adduced by the parties, the learned Judge was of the view that Exh.43, which was previous award relating to the lands of this very village, was a reliable piece of evidence for the purpose of determining market value of the lands acquired in the instant case. Therefore, by the impugned judgment and

award, Reference Court has awarded additional compensation at the rate of Rs.26/- per Sq.Mt. to the claimants over and above the compensation awarded by the Special Land Acquisition Officer, Mahesana, giving rise to the instant appeal.

3. This Court has heard Mr.R.C.Kodekar, learned Assistant Government Pleader appearing for the appellants, and Mr.A.J.Patel, learned counsel appearing for the claimant. This Court has also considered the evidence produced by the parties on the record of the case. It may be stated that from this very common judgment, First Appeal Nos.2959 to 2966 of 2004 were filed by the appellants and those appeals have been dismissed by the Division Bench comprising B.J.Shethna & M.C.Patel, JJ., vide judgment dated March 23, 2005. The learned counsels for the parties have stated at the Bar that this appeal was left out from consideration, and pray that the instant appeal be disposed of in terms of judgment dated March 23, 2005 rendered by the Division Bench of this Court in First Appeal Nos.

2959 to 2966 of 2004. While disposing of First Appeal Nos.2959 to 2966 of 2004, the Division Bench has held in Paragraphs 3 & 4 of the judgment as under :

> “3. However, learned counsel Mr.Patel for the respondents-claimants appearing in all these appeals relying on the judgment of the Hon'ble Supreme Court in case of ANOOP JAISWAL v. GOVERNMENT OF INDIA reported in AIR 1984 SC 636 and ADDITIONAL SPECIAL LAND ACQUISITION OFFICER v. YAMANAPPA BASALINGAPPA CHALWADI reported in AIR 1994 SC 1836 submitted that though Extra Assistant Judge, Mehsana awarded only Rs.12/= per sq. mtr. to the claimants of Deusana village the same were not rightly relied upon by the learned Judge in view of the judgment at Ex.43 for this very village Adundara. He submitted that though there may be temporary acquisition for a different purpose by different agency i.e. ONGC, but the same was to be relied upon by the learned Judge and it was rightly relied upon for awarding total compensation @ Rs.30.50 per sq.mtr. and, therefore, this court should not interfere with the impugned common judgment and award passed by the learned Judge in these appeals. In case of Special Land Acquisition Officer, Davangere v. P.Veerabhadrappa reported in AIR 1984 SC 774, the Hon'ble Supreme Court held that 10 years multiplier would be the proper method in determining the total market value by following the method of capitalization as just and reasonable method. This judgment was later on relied upon by

the Hon'ble Supreme Court in case of Yamanappa (supra). In the instant case, relying on the judgment at Ex.43 for this very village Adundara if the learned Judge has awarded total compensation @Rs.30.50 applying multiplier of 10 then certainly this court would not interfere with such judgment and award.

4. The court has to see that the poor farmers who lost their lands should be paid just and adequate compensation. In the instant case notification was issued years back, their lands were taken away since long and they were paid meager amount of Rs.4.50 per sq. mtr. by the Special Land Acquisition Officer and for all these years they have not got additional amount awarded by thelearned Judge way back in 2001. When the learned Judgehas awarded just and proper amount by way of compensation to the claimants then certainly this court would not interfere with such judgment and award.

In view of the above discussion, all these appeals fail and are hereby dismissed. However, there shall be no order as to costs."

4. In view of what has been held by the Division Bench of this Court in First Appeal Nos.2959 to 2966 of 2004, this Court is of the opinion that the judgment and award impugned in this appeal cannot be interfered with and the award rendered by the learned Judge deserves to be upheld, more particularly when it could not be pointed out by the learned counsel

for the appellants that reliance placed by the Reference Court on previous judgment produced at Exh.43 relating to the lands of this very village, was erroneous.

For the foregoing reasons, the appeal fails and is hereby dismissed. There shall be no order as to costs.

[J.M.PANCHAL,J.]

[BANKIM N.MEHTA,J.]

(patel)